

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 631

Introduced by Business and Labor Committee Lathrop, 12,  
Chairperson; McGill, 26; Schilz, 47; Wallman,  
30; White, 8.

Read first time January 21, 2009

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Employment Security Law; to amend  
2 sections 48-622.02, 48-622.03, 48-655, 48-665, 48-668,  
3 and 48-668.02, Reissue Revised Statutes of Nebraska, and  
4 sections 48-612.01, 48-648, 48-648.01, 48-649, 48-652,  
5 and 48-654, Revised Statutes Cumulative Supplement, 2008;  
6 to change provisions relating to information disclosure,  
7 electronic payment, employer accounts, unemployment  
8 compensation, and worker training programs; to harmonize  
9 provisions; to eliminate an advisory council and a board;  
10 to repeal the original sections; to outright repeal  
11 section 48-610, Reissue Revised Statutes of Nebraska; and  
12 to declare an emergency.

13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-612.01, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           48-612.01 (1) Information obtained pursuant to subsection  
4 (1) of section 48-612 may be disclosed under the following  
5 circumstances:

6           (a) ~~To the extent necessary for the proper presentation~~  
7 ~~of the contest of an unemployment benefit claim or tax appeal.~~  
8 Any claimant or employer or representative of a claimant or  
9 employer, as a party before an appeal tribunal or court regarding  
10 an unemployment claim or tax appeal, shall be supplied with  
11 information obtained in the administration of the Employment  
12 Security Law, to the extent necessary for the proper presentation  
13 of ~~his, her, or its~~ the claim or appeal;

14           (b) ~~The Nebraska Workers' Compensation Court may use the~~  
15 ~~names, addresses, and identification numbers of employers~~ may be  
16 disclosed to the Nebraska Workers' Compensation Court which may  
17 use such information for purposes of enforcement of the Nebraska  
18 Workers' Compensation Act;

19           (c) ~~Appeals records and~~ Appeal tribunal decisions  
20 rendered ~~under~~ pursuant to the Employment Security Law and  
21 designated as precedential ~~determinations~~ decisions by the  
22 commissioner on the coverage of employers, employment, wages, and  
23 benefit eligibility, may be published in printed or electronic  
24 format if all social security numbers have been removed and such  
25 disclosure is otherwise consistent with federal and state law;

1           (d) To a public official for use in the performance of  
2 his or her official duties. For purposes of this subdivision,  
3 performance of official duties means the administration  
4 or enforcement of law or the execution of the official  
5 responsibilities of a federal, state, or local elected official.  
6 Administration of law includes research related to the law  
7 administered by the public official. Execution of official  
8 responsibilities does not include solicitation of contributions or  
9 expenditures to or on behalf of a candidate for public office or  
10 to a political party;

11           (e) To an agent or contractor of a public official  
12 to whom disclosure is permissible under subdivision (d) of this  
13 subsection;

14           (f) ~~Information~~ For use in reports and publications  
15 containing information collected exclusively for statistical  
16 purposes under a cooperative agreement with the federal Bureau of  
17 Labor Statistics. This subdivision does not restrict or impose any  
18 condition on the transfer of any other information to the federal  
19 Bureau of Labor Statistics under an agreement or the federal Bureau  
20 of Labor Statistics' disclosure or use of such information; and

21           (g) In response to a court order.

22           (2) Information about an individual or employer obtained  
23 pursuant to subsection (1) of section 48-612 may be disclosed to:

24           (a) One who acts as an agent for the individual or  
25 employer when the agent presents a written release from the

1 individual or employer, where practicable, or other evidence of  
2 authority to act on behalf of the individual or employer;

3 (b) An elected official who is performing constituent  
4 services if the official presents reasonable evidence that the  
5 individual or employer has authorized such disclosure;

6 (c) An attorney who presents written evidence that he or  
7 she is representing the individual or employer in a matter arising  
8 under the Employment Security Law; or

9 (d) A third party or its agent carrying out the  
10 administration or evaluation of a public program, if that third  
11 party or agent obtains a written release from the individual or  
12 employer to whom the information pertains. To constitute informed  
13 consent, the release shall be signed and shall include a statement:

14 (i) Specifically identifying the information that is to  
15 be disclosed;

16 (ii) That state government files will be accessed to  
17 obtain that information;

18 (iii) Identifying the specific purpose or purposes for  
19 which the information is sought and that information obtained under  
20 the release will only be used for that purpose or purposes; and

21 (iv) Identifying and describing all the parties who may  
22 receive the information disclosed.

23 (3) Information obtained pursuant to subsection (1) of  
24 section 48-612 may be disclosed under the following circumstances:

25 (a) ~~Information about an individual or employer shall~~

1 ~~only be disclosed to the respective individual or employer.~~ To an  
2 individual or employer if the information requested pertains only  
3 to the individual or employer making the request;

4 (b) To a local, state, or federal governmental official,  
5 other than a clerk of court, attorney, or notary public acting on  
6 behalf of a litigant, with authority to obtain such information by  
7 subpoena under state or federal law; and

8 (c) ~~Disclosures to~~ To a federal official for purposes of  
9 unemployment compensation program oversight and audits, including  
10 disclosures under 20 C.F.R. part 601 and 29 C.F.R. parts 96 and 97  
11 as they existed on January 1, 2007.

12 (4) If the purpose for which information is provided  
13 under subsection (1), (2), or (3) of this section is not  
14 related to the administration of the Employment Security Law  
15 or the unemployment insurance compensation program of another  
16 jurisdiction, the commissioner shall recover the costs of providing  
17 such information from the requesting individual or entity prior to  
18 providing the information to such individual or entity unless the  
19 costs are nominal or the entity is a governmental agency which the  
20 commissioner has determined provides reciprocal services.

21 (5) Any person who receives information under subsection  
22 (1) or (2) of this section and rediscloses such information for any  
23 purpose other than the purpose for which it was originally obtained  
24 shall be guilty of a Class III misdemeanor.

25 Sec. 2. Section 48-622.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           48-622.02 (1) There is hereby created in the state  
3 treasury a special fund to be known as the Nebraska Training  
4 and Support Trust Fund. Any money in the fund available for  
5 investment shall be invested by the state investment officer  
6 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
7 State Funds Investment Act. All money deposited or paid into  
8 the fund is hereby appropriated and made available to the  
9 commissioner. No expenditures shall be made from the fund without  
10 the written authorization of the Governor upon the recommendation  
11 of the commissioner. Any interest earned on money in the State  
12 Unemployment Insurance Trust Fund shall be credited to the Nebraska  
13 Training and Support Trust Fund.

14           (2) Money in the Nebraska Training and Support Trust  
15 Fund shall be used for (a) administrative costs of establishing,  
16 assessing, collecting, and maintaining state unemployment insurance  
17 tax liability and payments, (b) administrative costs of creating,  
18 maintaining, and dissolving the State Unemployment Insurance Trust  
19 Fund and the Nebraska Training and Support Trust Fund, (c) support  
20 of public and private job training programs designed to train,  
21 retrain, or upgrade work skills of existing Nebraska workers, (d)  
22 recruitment of workers to Nebraska, (e) training new employees  
23 of expanding Nebraska businesses, (f) the costs of creating a  
24 common web portal for the attraction of businesses and workers to  
25 Nebraska, and ~~(d)~~ (g) payment of unemployment insurance benefits if

1 solvency of the state's account in the Unemployment Trust Fund and  
2 of the State Unemployment Insurance Trust Fund so require.

3 (3) There is hereby created within the Nebraska Training  
4 and Support Trust Fund a separate account to be known as the  
5 Administrative Costs Reserve Account. Money shall be allocated from  
6 the Nebraska Training and Support Trust Fund to the Administrative  
7 Costs Reserve Account in amounts sufficient to pay the anticipated  
8 administrative costs identified in subdivisions (2)(a) and ~~(b)~~  
9 through (g) of this section. The administrative costs determined to  
10 be applicable to creation and operation of the State Unemployment  
11 Insurance Trust Fund and the Nebraska Training and Support Trust  
12 Fund shall be paid out of the Administrative Costs Reserve Account.

13 Sec. 3. Section 48-622.03, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 48-622.03 ~~(1)~~ There is hereby created as of January  
16 ~~1, 1996,~~ the Nebraska Worker Training Board consisting of seven  
17 members appointed and serving for terms determined by the Governor  
18 as follows:

19 ~~(a) A member of the state advisory council created in~~  
20 ~~section 48-610 who is a representative of employers in Nebraska;~~

21 ~~(b) A member of the council who is a representative of~~  
22 ~~employees in Nebraska;~~

23 ~~(c) A member of the council who is a representative of~~  
24 ~~the public;~~

25 ~~(d) The Commissioner of Labor or a designee;~~

1           ~~(e) The Director of Economic Development or a designee,~~  
2           ~~(f) The Commissioner of Education or a designee, and~~  
3           ~~(g) The chairperson of the governing board of the~~  
4 ~~Nebraska Community College Association or a designee.~~

5           ~~(2) Beginning July 1, 1996, and annually thereafter,~~  
6 ~~the Governor shall appoint a chairperson for the board. The~~  
7 ~~chairperson shall be either the representative of the employers,~~  
8 ~~the representative of the employees, or the representative of the~~  
9 ~~public.~~

10           ~~(3) Beginning July 1, 1996, and annually thereafter~~  
11 ~~the board~~ (1) The commissioner shall, by rule and regulation,  
12 prepare an annual program plan for the upcoming fiscal year  
13 containing guidelines for the program financed by the Nebraska  
14 Training and Support Trust Fund. The guidelines shall include, but  
15 not be limited to, guidelines for certifying training providers,  
16 criteria for evaluating requests for the use of money under  
17 section 48-622.02. The guidelines shall give priority to training  
18 that contributes to the expansion of the Nebraska workforce and  
19 increasing the pool of highly skilled workers in Nebraska. ~~, and~~  
20 ~~guidelines for requiring employers to provide matching funds.~~

21           ~~(4) (2) Beginning September 1, 1997, 2009, and annually~~  
22 ~~thereafter, the board shall provide a report to the Governor~~  
23 ~~covering the activities of the program financed by the Nebraska~~  
24 ~~Training and Support Trust Fund for the previous fiscal year. The~~  
25 ~~report shall contain an assessment of the effectiveness of the~~

1 program and its administration.

2           Sec. 4. Section 48-648, Revised Statutes Cumulative  
3 Supplement, 2008, is amended to read:

4           48-648 (1) Combined tax shall accrue and become payable  
5 by each employer not otherwise entitled to make payments in lieu  
6 of contributions for each calendar year in which he or she is  
7 subject to the Employment Security Law, with respect to wages for  
8 employment. Such combined tax shall become due and be paid by each  
9 employer to the commissioner for the State Unemployment Insurance  
10 Trust Fund and the Unemployment Trust Fund in such manner and  
11 at such times as the commissioner may, by rule and regulation,  
12 prescribe and shall not be deducted, in whole or in part, from  
13 the wages of individuals in such employer's employ. The For all  
14 tax years beginning before January 1, 2010, the commissioner may  
15 require that any employer whose annual payroll for either of the  
16 two preceding calendar years has equaled or exceeded five hundred  
17 thousand dollars to file combined tax returns and pay combined  
18 taxes owed by an electronic method approved by the commissioner,  
19 except when the employer establishes to the satisfaction of the  
20 commissioner that filing the combined tax return or payment of  
21 the tax by an electronic method would work a hardship on the  
22 employer. For all tax years beginning on or after January 1, 2010,  
23 the commissioner may require any employer whose annual payroll  
24 for either of the two preceding calendar years has equaled or  
25 exceeded one hundred thousand dollars to file combined tax returns

1 and pay combined taxes owed by an electronic method approved by  
2 the commissioner, except when the employer establishes to the  
3 satisfaction of the commissioner that filing the combined tax  
4 return or payment of the tax by an electronic method would work a  
5 hardship on the employer. In the payment of any combined tax, a  
6 fractional part of a cent shall be disregarded unless it amounts to  
7 one-half cent or more, in which case it shall be increased to one  
8 cent. If the combined tax due for any reporting period is less than  
9 five dollars, the employer need not remit the combined tax.

10           (2) If two or more related corporations or limited  
11 liability companies concurrently employ the same individual and  
12 compensate such individual through a common paymaster which is  
13 one of such corporations or limited liability companies, each such  
14 corporation or limited liability company shall be considered to  
15 have paid as remuneration to such individual only the amounts  
16 actually disbursed by it to such individual and shall not  
17 be considered to have paid as remuneration to such individual  
18 amounts actually disbursed to such individual by another of such  
19 corporations or limited liability companies. An employee of a  
20 wholly owned subsidiary shall be considered to be concurrently  
21 employed by the parent corporation, company, or other entity  
22 and the wholly owned subsidiary whether or not both companies  
23 separately provide remuneration.

24           (3) The professional employer organization shall report  
25 and pay combined tax, penalties, and interest owed upon wages

1 earned by worksite employees under the client's employer account  
2 number using the client's combined tax rate. The client is liable  
3 for the payment of unpaid combined tax, penalties, and interest  
4 owed upon wages paid to worksite employees, and the worksite  
5 employees shall be considered employees of the client for purposes  
6 of the Employment Security Law.

7 Sec. 5. Section 48-648.01, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 48-648.01 The Commissioner of Labor may require by rule  
10 and regulation that each employer subject to the Employment  
11 Security Law shall submit to the commissioner quarterly wage  
12 reports on such forms and in such manner as the commissioner  
13 may prescribe. The For all tax years beginning before January 1,  
14 2010, the commissioner may require that any employer whose annual  
15 payroll for either of the two preceding calendar years has equaled  
16 or exceeded five hundred thousand dollars to file wage reports  
17 by an electronic method approved by the commissioner, except when  
18 the employer establishes to the satisfaction of the commissioner  
19 that filing by an electronic method would work a hardship on the  
20 employer. For all tax years beginning on or after January 1, 2010,  
21 the commissioner may require any employer whose annual payroll for  
22 either of the two preceding calendar years has equaled or exceeded  
23 one hundred thousand dollars to file wage reports by an electronic  
24 method approved by the commissioner, except when the employer  
25 establishes to the satisfaction of the commissioner that filing by

1 an electronic method would work a hardship on the employer. The  
2 quarterly wage reports shall be used by the commissioner to make  
3 monetary determinations of claims for benefits.

4 Sec. 6. Section 48-649, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

6 48-649 The commissioner shall, for each calendar year,  
7 determine the combined tax rate applicable to each employer on  
8 the basis of his or her actual experience in the payment of  
9 contributions and with respect to benefits charged against his or  
10 her separate experience account, in accordance with the following  
11 requirements:

12 (1) The commissioner shall, by December 1 of each  
13 calendar year, and based upon information available through the  
14 department, determine the state unemployment insurance tax rate for  
15 the following year. The state unemployment insurance tax rate shall  
16 be zero percent if:

17 (a) The average balance in the State Unemployment  
18 Insurance Trust Fund at the end of any three months in the  
19 preceding calendar year is greater than one percent of state  
20 taxable wages for the same preceding year; or

21 (b) The balance in the State Unemployment Insurance Trust  
22 Fund equals or exceeds thirty percent of the average month end  
23 balance of the state's account in the Unemployment Trust Fund for  
24 the three lowest calendar months in the preceding year. ~~or~~

25 ~~(c) The state advisory council determines that a zero~~

1 percent state unemployment insurance tax rate is in the best  
2 interests of preserving the integrity of the state's account in the  
3 Unemployment Trust Fund;

4 (2) (a) If the state unemployment insurance tax rate is  
5 not zero percent as determined in this section, the combined  
6 tax rate shall be divided so that not less than eighty percent  
7 of the combined tax rate equals the contribution rate and not  
8 more than twenty percent of the combined tax rate equals the  
9 state unemployment insurance tax rate except for employers who are  
10 assigned a combined tax rate of five and four-tenths percent or  
11 more. For those employers, the state unemployment insurance tax  
12 rate shall equal zero and their combined tax rate shall equal their  
13 contribution rate.

14 (b) When the state unemployment insurance tax rate is  
15 determined to be zero percent pursuant to subdivision (1) of this  
16 section, the contribution rate for all employers shall equal one  
17 hundred percent of the combined tax rate;

18 (3) In calendar year 2005, an employer's combined tax  
19 rate shall be three and five-tenths percent of his or her annual  
20 payroll unless and until (a) benefits have been payable from  
21 and chargeable to his or her experience account throughout the  
22 preceding one calendar year and (b) contributions have been payable  
23 to the fund and credited to his or her experience account with  
24 respect to the two preceding calendar years. Subject to fair and  
25 reasonable rules and regulations of the commissioner issued with

1 due regard for the solvency of the fund, in calendar year 2005  
2 the combined tax rate required of each employer who meets the  
3 requirements of subdivisions (a) and (b) of this subdivision shall  
4 be based directly on his or her contributions to and benefit  
5 experience of his or her experience account and shall be determined  
6 by the commissioner for each calendar year at its beginning. Such  
7 rate shall not be greater than three and five-tenths percent of his  
8 or her annual payroll if his or her experience account exhibits a  
9 positive balance as of the beginning of such calendar year, but for  
10 any employer who has been subject to the payment of contributions  
11 for any two preceding calendar years, regardless of whether such  
12 years are consecutive, and whose experience account exhibits a  
13 negative balance as of the beginning of such calendar year, the  
14 rate shall be greater than three and five-tenths percent of his  
15 or her annual payroll but not greater than five and four-tenths  
16 percent of his or her annual payroll until such time as the  
17 experience account exhibits a positive balance, and thereafter the  
18 rate shall not be greater than three and five-tenths percent of  
19 his or her annual payroll. For calendar year 2005, the standard  
20 rate shall be five and four-tenths percent of the employer's annual  
21 payroll. As used in this subdivision, standard rate shall mean the  
22 rate from which all reduced rates are calculated;

23 (4) (a) Effective January 1, 2006, an employer's combined  
24 tax rate (i) for employers other than employers engaged in the  
25 construction industry shall be the lesser of the state's average

1 combined tax rate as determined pursuant to subdivisions (4) (e),  
2 (4) (f), and (4) (g) of this section or two and five-tenths percent  
3 and (ii) for employers in the construction industry shall be the  
4 category twenty rate determined pursuant to subdivisions (4) (e) and  
5 (4) (f) of this section, unless and until:

6 (A) Benefits have been payable from and chargeable to his  
7 or her experience account throughout the preceding four calendar  
8 quarters; and

9 (B) Contributions have been payable to the fund and  
10 credited to his or her experience account with respect to each of  
11 the two preceding four-calendar-quarter periods.

12 For purposes of this subdivision (4) (a), employers  
13 engaged in the construction industry means all employers  
14 primarily engaged in business activities classified as sector 23  
15 business activities under the North American Industrial Industry  
16 Classification System.

17 (b) In no event shall the combined tax rate for employers  
18 who fail to meet the requirements of subdivision (4) (a) of this  
19 section be less than one and twenty-five hundredths percent.

20 (c) For any employer who has not been subject  
21 to the payment of contributions during each of the two  
22 four-calendar-quarter periods ending on September 30 of any year,  
23 but has been subject to the payment of contributions in any  
24 two four-calendar-quarter periods, regardless of whether such  
25 four-calendar-quarter periods are consecutive, such employer's

1 combined tax rate for the following tax year shall be:

2 (i) The highest combined tax rate for employers with a  
3 positive experience account balance if the employer's experience  
4 account balance exhibits a positive balance as of September 30 of  
5 the year of rate computation; or

6 (ii) The standard rate if the employer's experience  
7 account exhibits a negative balance as of September 30 of the year  
8 of rate computation.

9 (d) Beginning with rate calculations for calendar year  
10 2006 and each year thereafter, the combined tax rate for employers  
11 who meet the requirements of subdivision (4)(a) of this section  
12 shall be calculated according to subdivisions (4)(e), (4)(f), and  
13 (4)(g) of this section and shall be based upon the employer's  
14 experience rating record and determined from the employer's reserve  
15 ratio, which is the percent obtained by dividing the amount by  
16 which, if any, the employer's contributions credited from the time  
17 the employer first or most recently became an employer, whichever  
18 date is later, and up to and including September 30 of the year  
19 the rate computation is made, plus any part of the employer's  
20 contributions due for that year paid on or before October 31  
21 of such year, exceed the employer's benefits charged during the  
22 same period, by the employer's average annual taxable payroll for  
23 the sixteen-consecutive-calendar-quarter period ending September  
24 30 of the year in which the rate computation is made. For an  
25 employer with less than sixteen consecutive calendar quarters of

1 contribution experience, the employer's average taxable payroll  
2 shall be determined based upon the four-calendar-quarter periods  
3 for which contributions are payable.

4 (e) Each eligible experience rated employer shall be  
5 assigned to one of twenty rate categories with a corresponding  
6 experience factor as follows:

7	Category	Experience Factor
8	1	0.00
9	2	0.25
10	3	0.40
11	4	0.45
12	5	0.50
13	6	0.60
14	7	0.65
15	8	0.70
16	9	0.80
17	10	0.90
18	11	0.95
19	12	1.00
20	13	1.05
21	14	1.10
22	15	1.20
23	16	1.35
24	17	1.55
25	18	1.80

1	19	2.15
2	20	2.60

3 Eligible experience rated employers shall be assigned  
4 to rate categories from highest to lowest according to their  
5 experience reserve ratio with category one being assigned to  
6 accounts with the highest reserve ratios and category twenty being  
7 assigned to accounts with the lowest reserve ratios. Each category  
8 shall be limited to no more than five percent of the state's total  
9 taxable payroll, except that:

10 (i) Any employer which has a portion of its taxable wages  
11 fall into one category and a portion into the next higher category  
12 shall be assigned to the lower category; ~~and~~

13 (ii) No employer with a reserve ratio calculated to five  
14 decimal places equal to another employer similarly calculated shall  
15 be assigned to a higher rate than the employer to which it has the  
16 equal reserve ratio; ~~and-~~

17 (iii) No employer with a positive experience account  
18 balance shall be assigned to category 20.

19 (f) The state's reserve ratio shall be calculated by  
20 dividing the amount available to pay benefits in the Unemployment  
21 Trust Fund and the State Unemployment Insurance Trust Fund as of  
22 September 30, 2005, and each September 30 thereafter, less any  
23 outstanding obligations and amounts appropriated therefrom by the  
24 state's total wages from the four calendar quarters ending on

1 such September 30. For purposes of this section, total wages means  
 2 all remuneration paid by an employer in employment. The state's  
 3 reserve ratio shall be applied to the table in this subdivision to  
 4 determine the yield factor for the upcoming rate year.

5	State's Reserve Ratio		Yield Factor
6	1.45 percent and above	=	0.70
7	1.30 percent up to but not including 1.45	=	0.75
8	1.15 percent up to but not including 1.30	=	0.80
9	1.00 percent up to but not including 1.15	=	0.90
10	0.85 percent up to but not including 1.00	=	1.00
11	0.70 percent up to but not including 0.85	=	1.10
12	0.60 percent up to but not including 0.70	=	1.20
13	0.50 percent up to but not including 0.60	=	1.25
14	0.45 percent up to but not including 0.50	=	1.30
15	0.40 percent up to but not including 0.45	=	1.35
16	0.35 percent up to but not including 0.40	=	1.40
17	0.30 percent up to but not including 0.35	=	1.45
18	Below 0.30 percent	=	1.50

19           Once the yield factor for the upcoming rate year has  
 20 been determined, it is multiplied by the amount of unemployment  
 21 benefits paid from combined tax during the four calendar quarters  
 22 ending September 30 of the preceding year. The resulting figure is  
 23 the planned yield for the rate year. The planned yield is divided  
 24 by the total taxable wages for the four calendar quarters ending  
 25 September 30 of the previous year and carried to four decimal

1 places to create the average combined tax rate for the rate year.

2 (g) The average combined tax rate is assigned to rate  
3 category twelve as established in subdivision (4)(e) of this  
4 section. Rates for each of the remaining nineteen categories are  
5 determined by multiplying the average combined tax rate by the  
6 experience factor associated with each category and carried to  
7 four decimal places. Employers who are delinquent in filing their  
8 combined tax reports as of October 31 of any year shall be assigned  
9 to category twenty for the following calendar year unless the  
10 delinquency is corrected prior to December 31 of the year of rate  
11 calculation.

12 (h) As used in this subdivision (4) of this section,  
13 standard rate means the rate assigned to category twenty for  
14 that year. For calendar years 2006 and thereafter, the standard  
15 rate shall be not less than five and four-tenths percent of the  
16 employer's annual taxable payroll;

17 (5) Any employer may at any time make voluntary  
18 contributions up to the amount necessary to qualify for one rate  
19 category reduction, additional to the required contributions,  
20 to the fund to be credited to his or her account. Voluntary  
21 contributions received after March 10, 2005, for rate year 2005 or  
22 January 10 for rate year 2006 and thereafter shall not be used in  
23 rate calculations for the same calendar year;

24 (6) As used in sections 48-648 to 48-654, the term  
25 payroll means the total amount of wages during a calendar year,

1 except as otherwise provided in section 48-654, by which the  
2 combined tax was measured; and

3 (7) (a) The state or any of its instrumentalities shall  
4 make payments in lieu of contributions in an amount equal to  
5 the full amount of regular benefits plus one-half of the amount  
6 of extended benefits paid during each calendar quarter that is  
7 attributable to service in employment of the state or any of its  
8 instrumentalities. The commissioner after the end of each calendar  
9 quarter shall notify any state instrumentality or other public  
10 employer of the amount of regular benefits and one-half the amount  
11 of extended benefits paid that are attributable to service in its  
12 employment and the instrumentality or public employer so notified  
13 shall reimburse the fund within thirty days after receipt of such  
14 notice. The For all tax years beginning before January 1, 2010,  
15 the commissioner may require that any employer whose annual payroll  
16 for either of the two preceding calendar years has equaled or  
17 exceeded five hundred thousand dollars to pay the reimbursement  
18 by an electronic method approved by the commissioner, except when  
19 the employer establishes to the satisfaction of the commissioner  
20 that payment of the reimbursement by an electronic method would  
21 work a hardship on the employer. For all tax years beginning on or  
22 after January 1, 2010, the commissioner may require any employer  
23 whose annual payroll for either of the two preceding calendar years  
24 has equaled or exceeded one hundred thousand dollars to pay the  
25 reimbursement by an electronic method approved by the commissioner,

1 except when the employer establishes to the satisfaction of the  
2 commissioner that payment of the reimbursement by an electronic  
3 method would work a hardship on the employer.

4 (b) After December 31, 1977, the state or any of its  
5 political subdivisions and any instrumentality of one or more of  
6 the foregoing or any other governmental entity for which services  
7 in employment as is provided by subdivision (4)(a) of section  
8 48-604 are performed shall be required to pay contributions and  
9 after December 31, 1996, combined tax on wages paid for services  
10 rendered in its or their employment on the same basis as any  
11 other employer who is liable for the payment of combined tax under  
12 the Employment Security Law, unless the state or any political  
13 subdivision thereof and any instrumentality of one or more of the  
14 foregoing or any other governmental entity for which such services  
15 are performed files with the commissioner its written election not  
16 later than January 31, 1978, or if such employer becomes subject  
17 to this section after January 1, 1978, not later than thirty  
18 days after such subjectivity begins, to become liable to make  
19 payments in lieu of contributions in an amount equal to the full  
20 amount of regular benefits plus one-half of the amount of extended  
21 benefits paid during each calendar quarter that is attributable to  
22 service in employment of such electing employer prior to December  
23 31, 1978, and in an amount equal to the full amount of regular  
24 benefits plus the full amount of extended benefits paid during each  
25 calendar quarter that is attributable to service in employment of

1 such electing employer after January 1, 1979. Eligible employers  
2 electing to make payments in lieu of contributions shall not  
3 be liable for state unemployment insurance tax payments. The  
4 commissioner, after the end of each calendar quarter, shall notify  
5 any such employer that has so elected of the amount of benefits for  
6 which it is liable to pay pursuant to its election that have been  
7 paid that are attributable to service in its employment and the  
8 employer so notified shall reimburse the fund within thirty days  
9 after receipt of such notice.

10 (c) Any employer which makes an election in accordance  
11 with subdivision (b) of this subdivision to become liable for  
12 payments in lieu of contributions shall continue to be liable for  
13 payments in lieu of contributions for all benefits paid based upon  
14 wages paid for service in employment of such employer while such  
15 election is effective and such election shall continue until such  
16 employer files with the commissioner, not later than December 1  
17 of any calendar year, a written notice terminating its election  
18 as of December 31 of that year and thereafter such employer shall  
19 again be liable for the payment of contributions and for the  
20 reimbursement of such benefits as may be paid based upon wages paid  
21 for services in employment of such employer while such election was  
22 effective.

23 Sec. 7. Section 48-652, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25 48-652 (1)(a) A separate experience account shall be

1 established for each employer who is liable for payment of  
2 contributions. Whenever and wherever in the Employment Security  
3 Law the terms reserve account or experience account are used,  
4 unless the context clearly indicates otherwise, such terms shall be  
5 deemed interchangeable and synonymous and reference to either of  
6 such accounts shall refer to and also include the other.

7 (b) A separate reimbursement account shall be established  
8 for each employer who is liable for payments in lieu of  
9 contributions. All benefits paid with respect to service in  
10 employment for such employer shall be charged to his or her  
11 reimbursement account and such employer shall be billed for and  
12 shall be liable for the payment of the amount charged when billed  
13 by the commissioner. Payments in lieu of contributions received  
14 by the commissioner on behalf of each such employer shall be  
15 credited to such employer's reimbursement account, and two or more  
16 employers who are liable for payments in lieu of contributions may  
17 jointly apply to the commissioner for establishment of a group  
18 account for the purpose of sharing the cost of benefits paid that  
19 are attributable to service in the employ of such employers. The  
20 commissioner shall prescribe such rules and regulations as he or  
21 she deems necessary with respect to applications for establishment,  
22 maintenance, and termination of group accounts authorized by this  
23 subdivision.

24 (2) All contributions paid by an employer shall be  
25 credited to the experience account of such employer. State

1 unemployment insurance tax payments shall not be credited to  
2 the experience account of each employer. Partial payments of  
3 combined tax shall be credited so that at least eighty percent  
4 of the combined tax payment excluding interest and penalty is  
5 credited first to contributions due. In addition to contributions  
6 credited to the experience account, each employer's account shall  
7 be credited as of June 30 of each calendar year with interest  
8 at a rate determined by the commissioner based on the average  
9 annual interest rate paid by the Secretary of the Treasury of  
10 the United States of America upon the state's account in the  
11 Unemployment Trust Fund for the preceding calendar year multiplied  
12 by the balance in his or her experience account at the beginning  
13 of such calendar year. If the total credits as of such date to  
14 all employers' experience accounts are equal to or greater than  
15 ninety percent of the total amount in the Unemployment Compensation  
16 Fund, no interest shall be credited for that year to any employer's  
17 account. Contributions with respect to prior years which are  
18 received on or before January 31 of any year shall be considered  
19 as having been paid at the beginning of the calendar year. All  
20 voluntary contributions which are received on or before January  
21 10 of any year shall be considered as having been paid at the  
22 beginning of the calendar year.

23 (3)(a) Each experience account shall be charged only  
24 for benefits based upon wages paid by such employer. No benefits  
25 shall be charged to the experience account of any employer if (i)

1 such benefits were paid on the basis of a period of employment  
2 from which the claimant (A) left work voluntarily without good  
3 cause, (B) left work voluntarily due to a nonwork-connected illness  
4 or injury, (C) left work voluntarily with good cause to escape  
5 abuse as defined in section 42-903 between household members as  
6 provided in subdivision (1) of section 48-628.01, (D) left work  
7 from which he or she was discharged for misconduct connected with  
8 his or her work, or (E) left work voluntarily and is entitled to  
9 unemployment benefits without disqualification in accordance with  
10 subdivision (3) or (5) of section 48-628.01 and (ii) the employer  
11 has filed timely notice of the facts on which such exemption is  
12 claimed in accordance with rules and regulations prescribed by  
13 the commissioner. No benefits shall be charged to the experience  
14 account of any employer if such benefits were paid on the basis  
15 of wages paid in the base period that are wages for insured  
16 work solely by reason of subdivision (5)(b) of section 48-627. No  
17 benefits shall be charged to the experience account of any employer  
18 if such benefits were paid during a week when the individual was  
19 participating in training approved under section 236(a)(1) of the  
20 federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

21 (b) Each reimbursement account shall be charged only for  
22 benefits paid that were based upon wages paid by such employer in  
23 the base period that were wages for insured work solely by reason  
24 of subdivision (5) of section 48-627.

25 (c) Benefits paid to an eligible individual shall be

1 charged against the account of his or her most recent employers  
2 within his or her base period against whose accounts the maximum  
3 charges hereunder have not previously been made in the inverse  
4 chronological order in which the employment of such individual  
5 occurred. The maximum amount so charged against the account of any  
6 employer, other than an employer for which services in employment  
7 as provided in subdivision (4) (a) of section 48-604 are performed,  
8 shall not exceed the total benefit amount to which such individual  
9 was entitled as set out in section 48-626 with respect to base  
10 period wages of such individual paid by such employer plus one-half  
11 the amount of extended benefits paid to such eligible individual  
12 with respect to base period wages of such individual paid by  
13 such employer. The commissioner shall by rules and regulations  
14 prescribe the manner in which benefits shall be charged against  
15 the account of several employers for whom an individual performed  
16 employment during the same quarter or during the same base period.  
17 Any benefit check duly issued and delivered or mailed to a claimant  
18 and not presented for payment within one year from the date of its  
19 issue may be invalidated and the amount thereof credited to the  
20 Unemployment Compensation Fund, except that a substitute check may  
21 be issued and charged to the fund on proper showing at any time  
22 within the year next following. Any charge made to an employer's  
23 account for any such invalidated check shall stand as originally  
24 made.

25 (4) (a) An employer's experience account shall be deemed

1 to be terminated one calendar year after such employer has ceased  
2 to be subject to the Employment Security Law, except that if the  
3 commissioner finds that an employer's business is closed solely  
4 because of the entrance of one or more of the owners, officers,  
5 partners, or limited liability company members or the majority  
6 stockholder into the armed forces of the United States, or of any  
7 of its allies, after July 1, 1950, such employer's account shall  
8 not be terminated and, if the business is resumed within two years  
9 after the discharge or release from active duty in the armed forces  
10 of such person or persons, the employer's experience account shall  
11 be deemed to have been continuous throughout such period.

12 (b) An experience account terminated pursuant to this  
13 subsection shall be reinstated if (i) the employer becomes subject  
14 again to the Employment Security Law within one calendar year after  
15 termination of such experience account and the employer makes a  
16 written application for reinstatement of such experience account  
17 to the commissioner within two calendar years after termination of  
18 such experience account and (ii) the commissioner finds that the  
19 employer is operating substantially the same business as prior to  
20 the termination of such experience account.

21 (5) All money in the Unemployment Compensation Fund shall  
22 be kept mingled and undivided. The payment of benefits to an  
23 individual shall in no case be denied or withheld because the  
24 experience account of any employer does not have a total of  
25 contributions paid in excess of benefits charged to such experience

1 account.

2 (6) A contributory or reimbursable employer shall be  
3 relieved of charges if the employer was previously charged for  
4 wages and the same wages are being used a second time to establish  
5 a new claim as a result of the October 1, 1988, change in the base  
6 period.

7 (7) If an individual's base period wage credits  
8 represent part-time employment for a contributory employer and  
9 the contributory employer continues to employ the individual to  
10 the same extent as during the base period, then the contributory  
11 employer's experience account shall not be charged if the  
12 contributory employer has filed timely notice of the facts on which  
13 such exemption is claimed in accordance with rules and regulations  
14 prescribed by the commissioner.

15 Sec. 8. Section 48-654, Revised Statutes Cumulative  
16 Supplement, 2008, is amended to read:

17 48-654 Subject to section 48-654.01, any employer that  
18 acquires the organization, trade, or business, or substantially all  
19 the assets thereof, of another employer shall immediately notify  
20 the commissioner thereof, and prior to September 6, 1985, shall,  
21 and on and after September 6, 1985, may, pursuant to rules and  
22 regulations prescribed by the commissioner, assume the position of  
23 such employer with respect to the resources and liabilities of  
24 such employer's experience account as if no change with respect to  
25 such employer's experience account has occurred. The commissioner

1 may provide by rule and regulation for partial transfers of  
2 experience accounts, except that such partial transfers of accounts  
3 shall be construed to allow computation and fixing of contribution  
4 rates only on and after January 1, 1953, where an employer has  
5 transferred at any time subsequent to or on January 1, 1950,  
6 a definable and segregable portion of his or her payroll and  
7 business to a transferee-employer. For an acquisition which occurs  
8 during ~~any of the first three~~ either of the first two calendar  
9 quarters of a calendar year or during the fourth quarter of the  
10 preceding calendar year, a new rate of contributions, payable  
11 by the transferee-employer with respect to wages paid by him or  
12 her after midnight of the last day of the calendar quarter in  
13 which such acquisition occurs and prior to midnight of the ~~last~~  
14 ~~day of the calendar year in which acquisition occurs,~~ following  
15 September 30, shall be computed in accordance with this section.  
16 For the purpose of computing such new rate of contributions,  
17 the computation date with respect to any such acquisition shall  
18 be ~~December 31~~ September 30 of the preceding calendar year and  
19 the term payroll shall mean the total amount of wages by which  
20 contributions to the transferee's account and to the transferor's  
21 account were measured for ~~the calendar year~~ four calendar quarters  
22 ending September 30 preceding the computation date.

23           Sec. 9. Section 48-655, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           48-655 (1) Combined taxes or payments in lieu of

1 contributions unpaid on the date on which they are due and  
2 payable, as prescribed by the commissioner, shall bear interest at  
3 the rate of one and one-half percent per month from such date until  
4 payment, plus accrued interest, is received by the commissioner,  
5 except that no interest shall be charged subsequent to the date  
6 of the erroneous payment of an amount equal to the amount of the  
7 delayed payment into the unemployment trust fund of another state  
8 or to the federal government. Interest collected pursuant to this  
9 section shall be paid in accordance with subdivision (1)(b) of  
10 section 48-621. If, after due notice, any employer defaults in any  
11 payment of combined taxes or payments in lieu of contributions or  
12 interest thereon, the amount due may be collected ~~(1)~~ (a) by civil  
13 action in the name of the commissioner and the employer adjudged  
14 in default shall pay the costs of such action or ~~(2)~~ (b) by setoff  
15 against any state income tax refund due the employer pursuant to  
16 sections 77-27,197 to 77-27,209. Civil actions brought under this  
17 section to collect combined taxes or interest thereon or payments  
18 in lieu of contributions or interest thereon from an employer shall  
19 be heard by the court at the earliest possible date and shall  
20 be entitled to preference upon the calendar of the court over  
21 all other civil actions except petitions for judicial review under  
22 section 48-638.

23 (2) The commissioner may by rule and regulation provide  
24 for the offset from a person's personal federal income tax refund  
25 of contributions, penalties, and interest due and payable for

1 which the commissioner has determined the person to be liable  
2 due to fraud and which remain uncollected for not more than  
3 ten years. Such rules and regulations shall comply with Public  
4 Law 110-328 (2008) and United States Treasury regulations and  
5 guidelines adopted pursuant thereto. The commissioner shall notify  
6 the debtor, by certified mail return receipt requested, that the  
7 commissioner plans to recover the debt through offset against any  
8 federal income tax refund, and the debtor shall be given sixty days  
9 to present evidence that all or part of the liability is either  
10 not legally enforceable or not due to fraud. The commissioner  
11 shall review any evidence presented and determine that the debt  
12 is legally enforceable and due to fraud before proceeding further  
13 with the offset. The amount recovered, less any administrative fees  
14 charged by the United States Treasury, shall be credited to the  
15 debt owed. Any determination rendered under this subsection that  
16 the person's federal income tax refund is not subject to offset  
17 does not require the commissioner to amend the commissioner's  
18 initial determination that formed the basis for the proposed  
19 offset.

20           Sec. 10. Section 48-665, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           48-665 (1) Any person who has received any sum as  
23 benefits under the Employment Security Law to which he or she  
24 was not entitled shall be liable to repay such sum to the  
25 commissioner for the fund. Any such erroneous benefit payments

1 shall be collectible ~~(1)~~ (a) without interest by civil action in  
2 the name of the commissioner, ~~(2)~~ (b) by offset against any future  
3 benefits payable to the claimant with respect to the benefit year  
4 current at the time of such receipt or any benefit year which may  
5 commence within three years after the end of such current benefit  
6 year, except that no such recoupment by the withholding of future  
7 benefits shall be had if such sum was received by such person  
8 without fault on his or her part and such recoupment would defeat  
9 the purpose of the Employment Security Law or would be against  
10 equity and good conscience, or ~~(3)~~ (c) by setoff against any state  
11 income tax refund due the claimant pursuant to sections 77-27,197  
12 to 77-27,209.

13 (2) The commissioner may by rule and regulation provide  
14 for the offset from a person's personal federal income tax refund  
15 of any person who has received any sum as benefits under the  
16 Employment Security Law to which he or she was not entitled as  
17 a result of fraud and which remain uncollected for not more than  
18 ten years. Such rules and regulations shall comply with Public  
19 Law 110-328 (2008) and United States Treasury regulations and  
20 guidelines adopted pursuant thereto. The commissioner shall notify  
21 the debtor that the commissioner plans to recover the debt through  
22 offset against any federal income tax refund, and the debtor shall  
23 be given sixty days to present evidence that all or part of the  
24 liability is either not legally enforceable or not due to fraud.  
25 The commissioner shall review any evidence presented and determine

1 that the debt is legally enforceable and due to fraud before  
2 proceeding further with the offset. The amount recovered, less any  
3 administrative fees charged by the United States Treasury, shall  
4 be credited to the debt owed. Any determination rendered under  
5 this subsection that the person's federal income tax refund is not  
6 subject to offset does not require the commissioner to amend the  
7 commissioner's initial determination that formed the basis for the  
8 proposed offset.

9           Sec. 11. Section 48-668, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           48-668 (1) The commissioner is hereby authorized to enter  
12 into arrangements with the appropriate and duly authorized agencies  
13 of other states or the federal government, or both, whereby:

14           ~~(1)~~ (a) Services performed by an individual for a single  
15 employer for which services are customarily performed by such  
16 individual in more than one state shall be deemed to be services  
17 performed entirely within any one of the states in which ~~(a)~~ (i)  
18 any part of such individual's service is performed, ~~(b)~~ (ii) such  
19 individual has his or her residence, or ~~(c)~~ (iii) the employer  
20 maintains a place of business, if there is in effect, as to such  
21 services, an election by an employer with the acquiescence of such  
22 individual, approved by the agency charged with the administration  
23 of such state's unemployment compensation law, pursuant to which  
24 services performed by such individual for such employer are deemed  
25 to be performed entirely within such state;

1           ~~(2)~~ (b) Service performed by not more than three  
2 individuals, on any portion of a day but not necessarily  
3 simultaneously, for a single employer which customarily operates  
4 in more than one state shall be deemed to be service performed  
5 entirely within the state in which such employer maintains the  
6 headquarters of his or her business if there is in effect, as  
7 to such service, an approved election by an employer with the  
8 affirmative consent of each such individual, pursuant to which  
9 service performed by such individual for such employer is deemed to  
10 be performed entirely within such state;

11           ~~(3)~~ (c) Potential rights to benefits under the Employment  
12 Security Law may constitute the basis for payment of benefits  
13 by another state or the federal government and potential rights  
14 to benefits accumulated under the law of another state or the  
15 federal government may constitute the basis for the payment of  
16 benefits by this state. Such benefits shall be paid under the  
17 Employment Security Law or under the law of such state or the  
18 federal government or under such combination of the provisions of  
19 both laws, as may be agreed upon as being fair and reasonable  
20 to all affected interests. No such arrangement shall be entered  
21 into unless it contains provisions for reimbursement to the fund  
22 for such benefits as are paid on the basis of wages and service  
23 subject to the law of another state or the federal government,  
24 and provision for reimbursement from the fund for such benefits  
25 as are paid by another state or the federal government on the

1 basis of wages and service subject to the Employment Security Law.  
2 Reimbursements paid from the fund pursuant to this section shall be  
3 deemed to be benefits for the purposes of the Employment Security  
4 Law; and

5 ~~(4)~~ (d) Wages, upon the basis of which an individual may  
6 become entitled to benefits under an employment security law of  
7 another state or of the federal government, shall be deemed to be  
8 wages for insured work for the purpose of determining his or her  
9 benefits under the Employment Security Law; and wages for insured  
10 work, on the basis of which an individual may become entitled to  
11 benefits under the Employment Security Law, shall be deemed to be  
12 wages on the basis of which unemployment insurance is payable under  
13 such law of another state or of the federal government. No such  
14 arrangement shall be entered into unless it contains provisions  
15 for reimbursement to the fund for such of the benefits paid under  
16 the Employment Security Law upon the basis of such wages and  
17 provision for reimbursement from the fund for such benefits paid  
18 under such other law upon the basis of wages for insured work,  
19 as the commissioner finds will be fair and reasonable to all  
20 affected interests. Reimbursement paid from the fund pursuant to  
21 this section shall be deemed to be benefits for the purposes of the  
22 Employment Security Law.

23 (2) Notwithstanding any other provisions of this section,  
24 the commissioner shall participate in any arrangements for the  
25 payment of benefits on the basis of combining an individual's

1 wages and employment covered under the Employment Security Law with  
2 his or her wages and employment covered under the unemployment  
3 compensation laws of other states which are approved by the  
4 United States Secretary of Labor in consultation with the state  
5 unemployment compensation agencies as reasonably calculated to  
6 assure the prompt and full payment of benefits in such situations  
7 and which include provisions for (a) applying the base period  
8 of a single state law to a claim involving the combining of an  
9 individual's wages and employment covered under two or more state  
10 unemployment compensation laws, and (b) avoiding the duplicate use  
11 of wages and employment by reason of such combining. However, no  
12 benefits paid pursuant to an agreement to combine wages entered  
13 into under this subsection shall be charged against any employer's  
14 experience account if the employer's experience account, under the  
15 same or similar circumstances, would not be charged under the  
16 Employment Security Law. Benefits received by a claimant pursuant  
17 to an agreement entered into under this subsection to which he or  
18 she is not entitled shall be credited to an employer's experience  
19 account or reimbursement account in the same manner as claims paid  
20 based solely upon the laws of this state.

21           Sec. 12. Section 48-668.02, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           48-668.02 Reimbursements paid from the fund pursuant to  
24 ~~subsections (3) and (4)~~ subdivisions (1)(c) and (1)(d) of section  
25 48-668 shall be deemed to be benefits for the purposes of the

1 Employment Security Law. The commissioner is authorized to make to  
2 other state or federal agencies and to receive from such other  
3 state or federal agencies reimbursements from or to the fund  
4 in accordance with arrangements entered into pursuant to section  
5 48-668.

6           Sec. 13. Original sections 48-622.02, 48-622.03, 48-655,  
7 48-665, 48-668, and 48-668.02, Reissue Revised Statutes of  
8 Nebraska, and sections 48-612.01, 48-648, 48-648.01, 48-649,  
9 48-652, and 48-654, Revised Statutes Cumulative Supplement, 2008,  
10 are repealed.

11           Sec. 14. The following section is outright repealed:  
12 Section 48-610, Reissue Revised Statutes of Nebraska.

13           Sec. 15. Since an emergency exists, this act takes effect  
14 when passed and approved according to law.